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10/526,668	03/04/2005	Emma Jane Heatley	424662010300	3153
25227	7590	09/11/2008	EXAMINER	
MORRISON & FOERSTER LLP			MULLER, BRYAN R	
1650 TYSONS BOULEVARD				
SUITE 400			ART UNIT	PAPER NUMBER
MCLEAN, VA 22102			3723	
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			09/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/526,668	<b>Applicant(s)</b> HEATLEY, EMMA JANE
	<b>Examiner</b> BRYAN R. MULLER	<b>Art Unit</b> 3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 23 May 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) 8,13 and 15-17 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-7,9-12,14,18 and 19 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 04 March 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No./Mail Date 3/4/2005

4) Interview Summary (PTO-413)  
 Paper No./Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Claims 8, 13 and 15-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 5/23/2008.
2. Applicant's election with traverse of Species A and Species W in the reply filed on 5/23/2008 is acknowledged. The traversal is on the ground(s) that the claims are generic to species group W-Z and several of the claims are generic to species group A-G and are therefore meaningless. This is not found persuasive because each grouping of Species presents different structures that would require an extensive search if election was not required. Further, the election of species A from the species group A-G does withdraw several claims, effectively reducing the necessary search, and the election of species W from species group W-Z will effectively remove necessity of further search should the applicant add or amend claims to include structure of different species within the group.

The requirement is still deemed proper and is therefore made FINAL.

***Drawings***

3. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated, as indicated in the specification that the Figure is a

conventional vacuum cleaner. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

4. Claim 14 is objected to because of the following informalities: the word "means" in line 2 of claim 14 should be deleted. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 6, 9-12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosa (D452,594 S).
7. Rosa discloses a cleaning appliance that clearly anticipates all of claims 1-4, 6, 9-11 and 14, wherein the guide comprises a channel that retains the hose on the main body, as shown in the drawings of Rosa, the channel forming the guide may also be

considered to be a clip that is positioned along the hose storage path (claim 14) and each end of the channel is clearly arranged to retain the hose because the hose is shown being retained in the entire channel including the end portions.

8. Claims 1, 2, 6, 7, 9-11 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by White et al. (6,175,988).

9. White discloses a cleaning appliance that clearly anticipates all of claims 1, 2, 6, 7, 9-11, 14 and 18 wherein the guide comprises a channel (26) that retains the hose on the main body along with the rest of the guide (38 and 15b), as shown in the drawings of White, and White discloses that upper portion (24), including channel (26) may be removed from the main body (10 and 20; Col. 3, lines 6-10), thus the guide (26) is removably mounted on the main body.

#### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over White et al. (6,175,988) in view of Blase et al. (4,800,613).

12. White discloses the cleaning appliance, as discussed supra, wherein the guide is located on the main body such that the hose storage path is closer to the base of the

main body at the front and back of the main body and the main body has a length (Figs. 1, 2 and 4) that is greater than the width (Fig. 3) with feet (14a and 14b) to hold the vacuum in a stationary upright position, but fails to disclose that the sides of the main body includes a pair of wheels. The Examiner hereby takes official notice that it is old and well known in the art to provide the main body of vacuum cleaners with wheels to allow the main body to roll along with a user who is controlling the vacuum by the hose and nozzle. Blase discloses a suction cleaner, similar to the vacuum of White, having a length (Fig. 7) that is greater than the width (Fig. 6) and teaches that wheels (110) may be positioned on the sides of the vacuum, towards a rear end, to allow the cleaner to roll in forward/backward directions during use. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the main body of the vacuum cleaner disclosed by White with similar wheels positioned on the sides of the vacuum, towards a rear end on or in place of feet 14a or 14b, to allow the cleaner to roll in forward/backward directions during use, as taught by Blase, to allow the main body to roll along with a user who is controlling the vacuum by the hose and nozzle. Thus, the hose storage path disclosed by White, that extends around the entire periphery of the main body would be considered to lie around at least part of the wheels, the guide would be located above the wheels and the height of the hose storage path would be considered to increase in height (one portion of the hose directed upward toward guide 26) from the base of the body in the region of the wheels.

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13. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosa (D452,594 S) in view of Fernandez-Grandizo Martinez (2003/0145415; to be referred to hereinafter as Martinez).

14. Rosa discloses the cleaning appliance, as discussed supra, having a guide on either side of the main body and a hose with a length that is greater than the hose storage path around the main body (as seen in Fig. 5) but fails to disclose that the hose comprises a locator that identifies the portion of the hose which is to be retained on the main body. Martinez discloses a similar cleaning appliance having a guide in the form of a pair of tabs (110) on the main body for guiding a hose along a hose storage path, thus being a known equivalent in the art to the guide, in the form of a pair of channels, disclosed by Rosa. Martinez further discloses that the hose will include a slot section (125) formed by sections (126 and 128) that will engage the tab (110) on the body to retain the hose on the main body. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the hose retaining guide channels on the main body, disclosed by Rosa, may be replaced by tabs on the main body, similar to those disclosed by Martinez, being known equivalents in the art, wherein the tab engaging slot sections on the hose may be considered to be locators to identify the portion of the hose that is to be retained on the main body.

***Conclusion***

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15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Blasé et al. (4,910,828), Lagerstrom (3,510,904), Moine et al. (2002/0184731), Kitts (D467,694), Bensussen et al. (5,742,976), Davis et al. (D537,216), Santiago et al. (D462,488) and Gierer et al. (5,996,170) all disclose cleaning appliances having similar structure as the applicant's claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRYAN R. MULLER whose telephone number is (571)272-4489. The examiner can normally be reached on Monday thru Thursday and second Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bryan R Muller/  
Examiner, Art Unit 3723  
9/9/2008